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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (ABA) NO.489 OF 2024

(Sau. Laxmibai @ Baby w/o Waman Mohite and ors. Vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. A.K. Bhangde, Advocate for the applicants.
Mr. K.R. Lule, APP for the State.
Mr. A.A. Zade, Advocate for Assist to Prosecution.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- AUGUST 26, 2024.

Heard.

2. By this application, the applicants are seeking pre-arrest bail in connection with Crime No.291/2024 registered with Police Station Umarkhed, District Yavatmal for the offence punishable under Sections 304-B, 306 read with Section 34 of the Indian Penal Code.

3. Applicant No.1 is the mother-in-law, applicant No.2 is the sister-in-law and applicant No.3 is the brother-in-law of the deceased.

4. The FIR is lodged on the basis of report filed by Ashok Jaywantrao Mohite who is the father of the deceased Rajeshwari alleging that the marriage of his daughter was performed with co-accused namely Santosh Waman Mohite on 30/05/2019. After marriage she resumed the cohabitation at the house of her husband wherein she was residing along with the co-accused and

applicant No.1. It is alleged that she was ill-treated by the present applicants as well as by the other co-accused on demand of money. It is further alleged that due to the ill-treatment at the hands of the present applicants and other co-accused she left the matrimonial house and stayed at her father's house for some day. After settling the dispute she again resumed cohabitation but there was no change in the behaviour of the co-accused as well as applicant No.1, and therefore, she constrained to commit suicide and accordingly she hanged herself and committed suicide. On the basis of said report, police have registered the crime against the present applicants.

5. Learned Counsel for the applicants submitted that as far as the present applicants are concerned applicant No.2 who is the sister-in-law married prior to the marriage of the deceased and she was residing along with her in-laws. The general allegations is made against applicant Nos.2 and 3 who are not residing along with the deceased or her husband. As far as applicant No.1 is concerned general allegations is made against her that she being a mother-in-law of the deceased used to harass her as she begotten two daughters as well as on demanding the money also. He submitted that, now the investigation is completed and charge-sheet is filed. As far as the custodial interrogation of the present applicants is concerned which is not required, and therefore, they be protected by granting anticipatory bail.

6. Learned APP and learned Counsel for the complainant strongly opposed the said application and submitted that initially the deceased has resumed the cohabitation at the house of applicant No.1 by settling the dispute but there was no change in the behaviour of applicant No.1 as well as other co-accused which constrained the deceased to commit suicide. They both have submitted that the death of the deceased is caused within 7 years of marriage and the said death is in suspicious condition. In view of that, the offence punishable under Section 304-B is attracted. Though investigation is completed and charge-sheet is filed but as far as the role is concerned which is to be ascertain taking them into custody. Considering the gravity of the offence, the application deserves to be rejected.

7. I have heard learned Counsel for both the parties. Perused the investigation papers from which it reveals that the marriage of the deceased with the victim was performed on 30/05/2019 thereafter she resumed cohabitation at the house of applicant No.1 but she complained that she is not treated well and she was ill-treated as the dowry was not given to other in-laws in the marriage. It is further alleged that after marriage, she begotten two daughters and on that count also she was ill-treated, and therefore, she left the matrimonial house and started residing along with her father. Subsequently, the matter ends into the settlement and as per the settlement, she resumed the cohabitation but after

resuming cohabitation also there was no change in the behaviour of applicant No.1 and the other co-accused which constrained her to commit suicide. Thus, it is submitted that applicant No.1 has abetted the deceased to commit suicide, and therefore, prime role is played by applicant No.1. In view of that, the application deserves to be rejected.

8. I have heard learned Counsel for both the parties. Perused the recitals of the FIR as well as the investigation papers from which it reveals that as far as applicant No.1 is concerned general allegations is made against her that she was harassing the deceased as she is unable to do the household work properly. As far as the demand is concerned there is allegation against Vanita who is sister-in-law i.e. applicant No.2 is concerned.

9. The statements of various witnesses are also recorded during the investigation which shows that general allegations are made against the present applicants as far as the demand of dowry and harassment is concerned. The statement nowhere reveals that in what manner they have abetted the deceased or instigated her, and therefore, there was no other alternative before her to commit suicide. Now, the investigation is also completed and charge-sheet is filed, the law is settled as far as the abetment at the hands of in-laws is concerned. The Hon'ble Apex Court in the case of *Shabbir Hussain vs The State Of Madhya Pradesh [(2021) 17 SCC 807]* has

observed that in order to bring a case within the provision of Section 306 IPC, there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigating or by doing a certain act to facilitate the commission of suicide. The Hon'ble Apex Court further goes and observed that mere harassment without any positive action on the part of the accused proximate to the time of occurrence which led to the suicide would not amount to an offence under Section 306 IPC. At this stage, it is difficult to draw an inference that no case is made out against the present applicants but considering the general allegations are made against them. Now, the investigation is completed, the custodial interrogation is concerned which is not required. In view of that, the interim protection granted to the applicants deserves to be confirmed.

10 Hence, the application is allowed. The interim protection granted vide order dated 08/07/2024 is hereby confirmed on the same terms and conditions.

11. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)